

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:08CR126
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
LAWRENCE WILSON,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") and the parties' objections thereto in the Addendum to the PSR. Neither party filed their objections as required. See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

¶20 - Base Offense Level

The parties agree that the base offense level should be 20 based on U.S.S.G. § 2K2.1(a)(4)(A). Their objections are granted, and the base offense level is 20.

¶21 - § 2K2.1(b)(6) Enhancement

The plea agreement states that this enhancement based on use or possession of a firearm in connection with another felony offense does not apply. The parties objections to ¶ 21, which applies the enhancement, are granted.

¶22 - § 2K2.1(b)(4)(A) Enhancement

The Defendant objects to the 2-level enhancement in ¶ 22 regarding the allegedly stolen firearm. The objection will be heard at sentencing, and the Defendant has the burden by a preponderance of the evidence.

Criminal History

The plea agreement states that the parties recommend that criminal history category VI overstates the Defendant's criminal history, and they recommend that he be placed in

criminal history category V. Neither party has filed a motion based on overstatement of criminal history as required under the sentencing scheduling order, and therefore the Court declines to address this issue in these Tentative Findings.

IT IS ORDERED:

1. The Defendant's Objections to ¶¶ 21 and 22 of the PSR are granted;
2. The Defendant's objection to ¶ 22 of the PSR will be heard at sentencing;
3. The government's objections to ¶¶ 21 and 22 of the PSR are granted;
4. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
5. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
6. Absent submission of the information required by paragraph 5 of this Order, my tentative findings may become final; and
7. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 14th day of October, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge